

## **MINUTES OF THE MEETING OF THE BAR-BENCH-MEDIA CONFERENCE**

A meeting of the Bar-Bench-Media Conference was held on Monday, October 18, 2010, at 12:30 p.m. in the Supreme Court Conference Room in Wilmington, The Conference members in attendance were:

### Members of the Electronic News Media

Peg Brickley

Chris Carl (by telephone)

### Members of the Print News Media

Elizabeth Bennett

Rita Farrell (by telephone)

### Members of the Bench

Justice Carolyn Berger

Judge Peggy Ableman

### Members from the Bar

Paul A. Fioravanti, Jr., Esquire (by telephone)

Christine P. Schiltz, Esquire (by telephone)

Steve Church, Phil Milford, Sean O'Sullivan and Steve Taylor were also present for the meeting.

The meeting was called to order at 12:40 p.m. by Elizabeth Bennett, the Chair of the Conference.

The first agenda item was the approval of the draft minutes from the January 11, 2010 meeting and the April 12, 2010. The minutes were approved.

The next agenda item under Old Business was Free Media Access to Bankruptcy Hearings by telephone. Peg Brickley reported that that media had provisional access to bankruptcy telephonic hearings. This agreement was made as a result of Peg contacting Robert Alvarado, Courtcall CEO. Mr. Alvarado said that he would work on a media access policy. To date, Peg has not heard from Mr. Alvarado as to a proposed policy. Currently, lawyers pay for access by telephone. Each judge sets the rules, and most judges are flexible in trying to work out access issues. Media access is at the mercy of a commercial vendor.

The next agenda item under Old Business was Media Access to the COTS system. Sean O'Sullivan reported that personnel from the Judicial Information Center of the Administrative Office of the Courts installed a connection to the COTS system in the media room in the New Castle County Courthouse. It has the same interface as the Superior Court judgments desk. The connection is available to all media representatives. JIC will hold a brief training session, in the media room, on the COTS system for the media representatives. The issue is resolved.

Rita Farrell asked the status of the Court of Chancery docket on the web. The Court of Chancery is now posting its schedule on the web on a weekly basis. The issue is resolved.

Rita Farrell requested that the next meeting agenda include an item concerning the mock trial held before Judge Farnan in the District Court because Randall Chase was not present at the meeting to give the Conference an update.

Rita Farrell also asked that the issue of media access to timely copies of transcripts be placed on the Conference agenda. Rita wanted to know if anyone could get a copy of a transcript from a party who had previously purchased the transcript.

Rita Farrell asked for the status of the Conference's request to expand electronic media coverage of courtroom proceedings. The request has been sent to the Delaware Supreme Court by the Conference Chair.

Under new business, Peg Brickley wanted to know what the process was for closing bankruptcy hearings. In her experience, the Court does not state the reasons for closing the hearings. It appears that some cases are closed to the public when information protected by a confidentiality order is going to be discussed in the courtroom.

Under new business, Peg Brickley wanted to find out what the Court of Chancery process for denying electronic access to Court hearings via telephone or webcast. Peg noted that there was no webcast of the recent Airgas case in the Court of Chancery. She said that Chancellor Chandler was

surprised by the extent of the request for confidentiality. Peg was advised to contact the Court of Chancery Rules Committee to seek the answers to her questions. It was also suggested that she might want to draft a rule. It was pointed out that the litigants are the focus of the Court during hearing, but the media can make its issues known to the Court. Peg said that the media would like to know (1) what the reasons are for closing a hearing, (2) did a judge look at the reasons for closing, (3) did the judge consider public access, (4) is there a test on a weighing done by the judge before closing a hearing and (5) is there a process to object to the closing of a hearing.

Steve Church told the Conference that he was asked to leave for a portion of a bankruptcy hearing. He was told that he could come back later after the confidential matters were discussed. No one ever came to tell him to come back to the hearing. A ruling was made at the hearing, and he was not there to hear it.

Members of the Conference said that the media has the responsibility to object to being removed from hearings because confidential matters are being discussed. The media can ask the judge for the reasons that the court proceeding is being closed to the public. The Courtroom is a public forum.

The final agenda item was the selection of 2011 Conference meeting date. The Conference will meet on January 10, 2011, April 11, 2011, July

11, 2011 and October 17, 2011. The next Conference meeting will be held on Monday, January 10, 2011 at 12:30 p.m. in the Supreme Court Conference Room in Wilmington. Lunch will be served. A conference call dial in number, for Conference members unable to be present at the meeting, will be circulated to the Conference members prior to the meeting.

The meeting adjourned at 1:55 p.m.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Stephen D. Taylor".

SDT/dlc

December 15, 2010